THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.520 of 2007

19.2.2007

Between:

Alluri Venkatapathi Raju, S/o.Ramachandra Raju
And others

… Petitioners

AND

The Secretary to Government of Andhra Pradesh,
Endowments Department, Secretariat, Hyderabad
And others

… Respondents

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ORDER:

The three petitioners are aggrieved by the order of the first respondent dated 25.11.2006 passed under Section 93 of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (the Act, for short). By the impugned order, the first respondent confirmed the orders of the second respondent, who while exercising appellate powers under Rule 3 of A.P. Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (the Rules, for short) confirmed the orders of the jurisdictional Assistant Commissioner of Endowments declining to declare the first petitioner as landless poor person for the purpose of Section 82(2) of the Act.

Land admeasuring Acs.3.89 in survey No.1074 of Mummidivaram in East Godavari District is the endowment to Sri Kesava Swamy Temple, the third respondent herein. The petitioners allege that all the three of them are tenants of the land. After coming into force of Section 82 of the Act, as amended by Act 27 of 2002, the first petitioner filed an application under Rule 3 of the Rules before the Assistant Commissioner of Endowments, Rajahmundry, seeking declaration that he is a landless poor person as defined under Section 82(2) of the Act. The same was rejected. The appeal filed by the first petitioner was also dismissed on 13.8.2004 by the second respondent. At that stage, the first petitioner filed revision petition under Section 93 of the Act before the first respondent. While the same was pending, the first petitioner filed W.P.No.21374 of 2004 seeking a direction to the first respondent herein to expedite the disposal of the revision petition. This Court disposed of the said writ petition observing that the first petitioner should deposit 12 bags per

acre in default of which it shall be open to evict him from the land. Before the first respondent, the petitioners contended that they took the land on lease in the name of the first petitioner in 1978, that they were separately cultivating the land and were paying the maktha to the third respondent in the name of the first petitioner. The first respondent, after obtaining necessary remarks from the Assistant Commissioner, came to the conclusion that after conducting thorough enquiry the lower authorities rejected the claim of the first petitioner and, therefore, it does not warrant any interference.

Learned Counsel for the petitioners strenuously contends that though the maktha/rent was paid by the first petitioner, all the three petitioners were cultivating the land separately and that the holding in possession of each of the petitioners out of Acs.3.89 being less than Acs.2.50 of wetland, they are entitled for declaration as landless poor persons. **Per contra**, learned Assistant Government Pleader for Endowments submits that apart from the land belongs to the third respondent, the first petitioner is also cultivating another extent of Ac.3.89 and that the petitioners 2 and 3 are not the tenants of third respondent. She relied on the following findings in the impugned order.

> As per the records, it is observed that Sri Alluri Venkatapathi Raju, the petitioner in the R.P. is cultivating land measuring Acs.3.89 cents in R.S.No.1074 situated at Mummidivaram village belonging to Sri Sureswara Swamy Temple and also cultivating land measuring Acs.3.89 cents in R.S.N.1074 situated at Mummidivaram village belonging to Sri Kesava Swamy Temple. Thus totally he is enjoying the temples land measuring Acs.7.78 cents from Fasli 1390. He is paying meager Maktha of 16 bags of paddy for the total extent of Acs.3.89 cents and 12 bags of paddy per acre for the total extent of Acs.3.89 cents belonging to Sri Sureswara Swamy Temple and Sri Kesava Swamy Temple respectively ever since he entered into the land. Further there are no subsisting lease orders in favour of the Revision Petitioner.
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> In this connection, Sri Alluri Venkatapathi Raju is cultivating the total extent of land Acs.7.78 cents in R.S.No.1074 belonging to Sri Sureswara Swamy Temple and Sri Kesava Swamy Temple. Therefore he cannot claim the status of LLP as the limit prescribed to claim the status of LLP being Acs.2.50 cents wet only. Further, the petitioner is in arrears of 64 bags of paddy for the period from 2002-03 to 2005-06 in respect of the land belonging to Sri Sureswara Swamy Temple, Mummidivaram. That shows he is not prompt in paying maktha due to the temple.

This Court has perused the impugned order in the light of the submissions made by the Counsel. As seen from the revision petition

filed by the first petitioner before the Government, it appears that it is only for the first time, they pleaded the ground of joint tenancy. The second respondent sent a report to the first respondent to the effect that the petitioners are not members of joint family and that the first petitioner alone is recorded as tenant and the lease was granted in his favaour only. No effort is made by the learned Counsel for the petitioners to impeach said finding of fact. It appears that at a belated stage or as an after-thought so as to save the land in their holding, the first petitioner invented the theory of joint tenancy, which is not born out by record or evidence. The writ petition is wholly misconceived. It is frivolous petition liable to be dismissed with exemplary costs. However, as the matter is dismissed *in limine*, this Court refrains from imposing costs.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO,J**)

February 19, 2007.
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